

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

THOMAS SCHELL and CHRISTOPHER
RILEY, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

THE KROGER COMPANY d/b/a
KROGER,

Defendant.

Case No. 1:21-cv-00103-MRB

[PROPOSED] ORDER

On this _____ day of _____, 20____, the Court having considered Plaintiffs' Motion for Conditional Certification and Court-Authorized Notice, Defendant's response, and Plaintiffs' reply in further support, and all related evidence, hereby **GRANTS** Plaintiffs' Motion.

It is **ORDERED** that, pursuant to 29 U.S.C. § 216(b), the following collective is certified:

All current and former "Assistant Store Managers"¹ who work(ed) for Kroger in its Central (Indianapolis), Michigan, Louisville, Dallas, Houston and Mid-Atlantic (Roanoke) divisions at any time on or after October 8, 2018 to the present, and who were classified as exempt from overtime compensation (the "ASM Collective").

IT IS FURTHER ORDERED that, within seven (7) days of the date of this Order, Defendant is directed to produce to Plaintiffs' counsel a list, in Microsoft Excel format, of all persons employed by Defendant as Assistant Store Manager and/or Assistant Store Leader at any

¹ This also includes individuals holding the title of "Assistant Store Leader."

Kroger store in the United States on or after October 8, 2018 to the present, including: names, addresses, dates of employment, locations of employment, and work and personal e-mail addresses.

IT IS FURTHER ORDERED that Plaintiffs' Notice of Lawsuit and Consent To Join form are approved and, and within twenty-one (21) days of the date of this Order, Plaintiffs shall distribute the Notice of Lawsuit to the members of the ASM Collective. The Notice shall be distributed via U.S. Mail and e-mail and saved in electronic format on a case-specific website created by Plaintiffs. The Notice shall also be posted in a conspicuous location in the back room/office in each of Defendant's "Kroger" stores throughout the United States.

The members of the ASM Collective shall have sixty (60) days from the date the Notice was distributed to them to return the "Consent To Join" form via U.S. Mail, facsimile, e-mail, or electronic submission online, which shall then be filed with the Court. The Notice shall also, thirty (30) days after it was originally distributed, be re-sent to those members of the ASM Collective who have not returned "Consent To Join" forms.

IT IS FURTHER ORDERED that a telephonic case management conference will take place on _____, 20____, at _____ a.m./p.m. for the purpose of advising the Court of the status of the notice and opt-in process and to discuss entry of a subsequent case management order. At least three (3) days prior to the case management conference, the parties shall submit an agreed-upon proposed case management order (or, if not agreed upon, a single proposed case management order identifying any differences between the parties).

BY THE COURT:

Judge Michael R. Barrett